

# **DRAFT**

## **2009 ZONING PROPOSAL**

### **XVII CONSERVATION FOCUS AREAS OVERLAY DISTRICT**

**A. AUTHORITY:** The Conservation Focus Areas Overlay District is authorized by the following provisions of New Hampshire law:

1. NH RSA 674:21 Innovative Land Use Controls
2. NH RSA 674:21 (j) Environmental Characteristics Zoning
3. NH RSA 674:36 (m) Master Plan Supporting Language
4. NH RSA 674:16 Grant of Power
5. NH RSA 674:17 (h) Purposes of Zoning Ordinances: "To assure proper use of natural resources and other public requirements"

**B. PURPOSE:** The Conservation Focus Areas in Nottingham are identified as lands having exceptional significance for the protection of living resources and water quality. The purpose of the Conservation Focus Areas Overlay District is to maintain diverse wildlife habitat, abundant wetlands, high water and air quality, productive forests, and outstanding recreational opportunities while minimizing harmful impacts and allowing for a reasonable level of residential development. This would be done by conserving the best remaining lands of exceptional significance containing the critical ecological, biological and water resources of New Hampshire's Coastal Watersheds; and by guiding the location, density and design of development within the Conservation Focus Areas to minimize harmful impacts while allowing for a reasonable level of use of these lands. It would allow the Town of Nottingham to:

1. Protect land areas with key natural resource features that provide the ecological functions necessary to sustain a healthy environment, including unfragmented forest ecosystems, high quality stream watersheds, large and high quality wetland systems, riparian zones on freshwater rivers, streams, lakes and ponds, exemplary natural communities, and significant wildlife habitat.
2. Protect the quality and quantity of surface and groundwater, including aquifers, rivers, lakes and reservoirs.
3. Maintain land and resources that provide protection from natural hazards, such as flooding and drought and allow for water recharge.
4. Protect lands that sustain other critical ecosystem and natural service functions including: freshwater regulation and supply, nutrient cycling and uptake, waste assimilation, erosion and sediment control, and habitat protection.
5. Prioritize the Conservation Overlay District Focus Areas for protection through conservation easements and fee simple acquisition.

6. Use the natural capacity of the land and natural resources as a controlling factor in determining the intensity, location and design of development permitted in the Conservation Overlay District Focus Areas.
7. Connect habitat patches to facilitate wildlife movement and protect wildlife from the negative impacts of development.
8. Encourage compact development and other regulatory and voluntary means to minimize impacts from direct development in Conservation Overlay District Focus Areas.
9. Lessen air pollution and promote energy conservation, energy efficiency and other methods to reduce carbon emissions.
10. Encourage landscaping that promotes noise reduction by minimizing the need for carbon emitting outdoor maintenance equipment.

**C. DELINEATION OF THE DISTRICT:** The Conservation Focus Areas Overlay District as depicted on the map titled “Nottingham Conservation Focus Areas Overlay District” dated **month day year**, as may be amended, shall be subject to the requirements of this ordinance. This map is hereby incorporated into this ordinance by reference. The Conservation Focus Areas District is an overlay district superimposed over the conventional zoning of the Town. It includes: integral components of The Four Generals’ Greenway, a conservation concept plan, supported at Town Meeting March 2006; and specifically Core Focus Areas identified by *The Land Conservation Plan for New Hampshire’s Coastal Watersheds, 2006*; Core Focus Areas identified by *The New Hampshire Fish and Game, Wildlife Action Plan, 2006*; and *The Wildlife Corridor Areas* identified to support wildlife movement through the Four Generals’ Greenway by the Nottingham Conservation Commission, 2007. The map includes conservation core focus areas and wildlife core focus areas, as well as wildlife corridor areas as defined below:

1. **Conservation Core Focus Areas:** The **Conservation Core Focus Areas** were identified by *The Land Conservation Plan for New Hampshire’s Coastal Watersheds, 2006*. These areas contain lands of exceptional significance for the protection of living resources and water quality which include large unfragmented forest blocks; intact floodplains and riparian zones; high quality stream networks and small watersheds; irreplaceable coastal and estuarine features; significant fish, plant and wildlife habitats; critical habitat supporting rare species and exemplary natural communities; important connectivity zones. These unfragmented areas, which are wholly or almost entirely undeveloped, represent the highest priority for conservation and protection.
2. **Wildlife Core Focus Areas:** The **Wildlife Focus Areas** were identified by *The New Hampshire Fish and Game, Wildlife Action Plan, 2006*. These areas are comprised of habitats and community types essential to species in the greatest need of conservation to preserve the diversity and health of the State’s wildlife.
3. **Wildlife Corridor Areas:** The **Wildlife Corridor Areas** were identified by the Nottingham Conservation Commission (2007) in order to maintain opportunities for wildlife movement through Nottingham’s Four Generals’ Greenway. These areas are comprised of key land

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protection opportunities that serve to link large habitat systems, such as forest blocks, floodplains, riparian zones, streams, watersheds, and existing conservation parcels.

**D. APPLICABILITY:** The Conservation Focus Areas Overlay District is an alternative, voluntary form of subdivision. If a property owner or developer selects to use this ordinance one or more of the following criteria shall be in effect:

1. applications for major subdivision that include Conservation Focus Areas and are 20 acres or larger;
2. applications for site plan review that include Conservation Focus Areas and create four or more residential dwelling units;
3. and applications for site plan review that include Conservation Focus Areas and include two or more acres of proposed development.

**E. PERMITTED USES **BEYOND RESIDENTIAL DEVELOPMENT**:** The Conservation Focus Areas Overlay District shall allow the following uses with associated best management practices:

1. Forestry management and timber harvesting as permitted by RSA 485-A: 17.IV, with implementation of best management practices as recommended in the document "Best Management Practices for Forestry: Protecting New Hampshire's Water Quality" (2005, as amended) by the University of New Hampshire Cooperative Extension.
2. Agriculture as permitted by RSA 21:34-a and 432:33, with implementation of best management practices as recommended in the document "Manual of Best Management Practices for Agriculture in New Hampshire" (2002, as amended) distributed by the NH Department of Agriculture, Division of Regulatory Services.
3. Recreational trails and paths for non-mechanized uses including, but not limited to, hiking, walking, bicycling, and horseback riding are permitted as long as the following standards are met:
  - a. For the construction of new trails:
    - 1) Finished width not to exceed 6 feet;
    - 2) Surface composed of pervious or semi-pervious materials;
    - 3) No clearing of natural vegetation beyond 2 feet of the trail edge;
    - 4) Location and configuration shall minimize the need for clearing and grading necessary for construction; and
  - b. Construction of new trails and maintenance of existing trails shall be consistent with Standards in *Best Management Practices For Erosion Control During Trail Maintenance and Construction* (2004, as amended) by NH Department of Resources and Economic Development, Division of Parks and Recreation, Bureau of Trails or *Best management Practices for Forestry: Protecting New Hampshire's Water*

4. Recreation trails and paths for use by snowmobiles and non-mechanized uses on snow are permitted provided best management practices are implemented as recommended in *Best Management Practices for Erosion Control During Trail Maintenance and Construction* (2004, as amended) by NH Department of Resources and Economic Development, Division of Parks and Recreation, Bureau of Trails or *Best Management Practices for Forestry: Protecting New Hampshire's Water Quality* (2005, as amended) by the University of New Hampshire Cooperative Extension.
5. Monitoring requirements for **stewardship activities, such as** baseline documentation, annual monitoring, and other specified activities contained within the conservation easement or other legal documentation shall be designed for ease of administration by the easement holder(s) and for a clear understanding of responsibilities, processes and enforcement actions between the easement holders and property owners or other legal entities.

#### **F. DEFINITIONS:**

**BUFFER**– an upland area that is contiguous with and runs parallel to a stream and that may or may not consist of natural vegetation including trees, shrubs and groundcover.

**CONSERVATION FOCUS AREAS** –as shown on the Town of Nottingham map *Conservation Focus Areas Overlay District*. These Conservation Focus Areas are specific geographic areas that contain the primary natural features and habitat for which the conservation focus areas were identified using the methodology established in *The Land Conservation Plan for New Hampshire's Coastal Watersheds, 2006; New Hampshire Fish and Game Wildlife Action Plan*, and the map *Four Generals' Greenway and Wildlife Corridors for Four Generals' Greenway, Town of Nottingham, NH* (2006 by Nottingham Conservation Commission and Strafford Regional Planning Commission).

**DEVELOPMENT** – the subdivision of land, any use or activity that results in alteration of the land surface, the removal of vegetation, and the construction of buildings and structures.

**PARENT PARCEL** – a tract of land or parcel of record at the time of the adoption of this ordinance.

**REFERENCE LINE** – for first and second order streams, measured from the edge of the active channel; for third order streams and higher, measured from the ordinary high water mark.

#### **G. DIMENSIONAL REQUIREMENTS:** Development proposed in the Conservation Focus Areas shall comply with the following dimensional requirements.

1. Overall residential density within a Conservation Focus Area shall not exceed one dwelling unit per **five (5)** acres.

2. The following minimum lot dimensions shall apply:

- a. Lot Envelope shall be a minimum of eighteen (18,000) contiguous square foot upland buildable soil area.
- b. Frontage shall be a minimum of one hundred (100) contiguous feet on a Class V road or better.
- c. Building Setbacks shall be a minimum of twenty-five (25) feet.
- d. Acreage shall be a minimum of one (1) acre.

**H. PERFORMANCE STANDARDS:** Development proposed in the Conservation Focus Areas shall comply with the following standards:

1. Incentive Bonus of xx % rounded down to lower number for keeping more than 50% undeveloped:..... DISCUSSION Point for Planning Board Members.
2. Development, lots, roads and utility infrastructure shall be situated in the part of the parcel closest to pre-existing development and furthest from the central or most critical portions of the Conservation Focus Areas as delineated and described by *The Land Conservation Plan for New Hampshire's Coastal Watersheds* and *The New Hampshire Fish and Game Wildlife Action Plan*.
3. Contiguous forested land and open space shall be preserved to connect wildlife corridors and habitat on the subject property and to connect them with adjacent properties. A minimum 100-foot wide contiguous forested or naturally vegetated wildlife corridor shall be preserved along all side and rear property boundaries of the subdivision plan or site plan???
4. All first order and higher perennial streams in Conservation Focus Areas shall have a minimum **100-foot naturally vegetated no-disturb buffer** to protect riparian habitat and water quality. Buffers shall be measured from the reference line of streams. If not present at the time of development, buffers can be established through planting with native vegetation or allowed to regenerate naturally.
5. Development shall not disturb habitat for rare, threatened or endangered species or exemplary natural communities. All subdivision and site plan applications shall be submitted to the New Hampshire Natural Heritage Bureau for review and their recommendations for protection of sensitive habitat and resources shall be submitted to the Planning Board as part of such application.
6. If the parent parcel(s) include(s) land outside the Conservation Focus Area, as much of the development as feasible shall be located outside the Conservation Focus Area, unless the applicant demonstrates that no alternative is available other than locating a portion of the development within the Conservation Focus Area.
7. A stormwater management plan shall be prepared and stamped by a professional engineer. These plans will show specific methods that will be used to manage the quantity and provide

water quality treatment of stormwater for the entire project site. These plans shall incorporate best management practices as recommended in the document *Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas In New Hampshire* (1992, as amended). Guidelines in the documents *Innovative Storm water Treatment Technologies: Best Management Practices Manual* (2002, as amended) by the NH Department of Environmental Services and New Hampshire Estuaries Project and *Best Management Practices to Control Nonpoint Source Pollution: A Guide for Citizens and Town Officials* (January 2004, as amended) by the NH Department of Environmental Services may also be considered.

8. For all land disturbance associated with the application, an erosion and sedimentation control plan and a grading plan for the project site shall be prepared and stamped by a professional engineer. These plans will show specific methods that will be used to control soil erosion and sedimentation, soil disturbance and removal, grading, and stormwater collection. These plans shall provide for temporary protection measures during construction and permanent protection measures in the post-development condition. These plans shall incorporate best management practices as recommended in the documents *Best Management Practices to Control Nonpoint Source Pollution: A Guide for Citizens and Town Official* (January 2004, as amended) and *Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas In New Hampshire* (1992, as amended) by the NH Department of Environmental Services.
9. Areas located in the Aquifer Conservation District shall follow the regulations (Section VII, page 27 of the *Nottingham Building Code and Zoning Ordinance Regulations (March 13 2007, as amended)*).

**H. PROCEDURAL REVIEW:** Any proposed residential subdivisions or site plans located in the Conservation Focus Areas District and which choose to use this Ordinance shall require Conservation Commission review and recommendation prior to Planning Board review. The application for review shall comply with the Nottingham Zoning Ordinance and the Nottingham Subdivision and Site Plan Regulations and standard procedures.

January 3<sup>rd</sup> 2008  
January 22<sup>nd</sup> 2008  
June 25<sup>th</sup> 2008  
July 9<sup>th</sup> 2008 Revisions

October 3, 2008 Revisions by Cynthia Copeland, incorporating the New Durham Conservation Focus Area Ordinance and the policy of mandatory application to named Core Focus Areas, and optional for all other property within the Town of Nottingham. For DISCUSSION PURPOSES ONLY.

October 15, 2008 Revisions by Cynthia Copeland, incorporating the comments from Planning Board Meeting of October 8, 2008. For DISCUSSION PURPOSES ONLY.

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October 16, 2008 Revisions by Cynthia Copeland, incorporating the comments from Planning Board  
Meeting of October 15, 2008. Fax received from Lisa Sears with changes. For DISCUSSION  
PURPOSES ONLY.

November 20, 2008 Revisions by Cynthia Copeland, incorporating the comments from Planning Board  
Meeting of November 19, 2008. FOR DISCUSSION PURPOSES ONLY.